

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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FRANK W. WHITE JR.,

Plaintiff,

-against-

22 **CIVIL** 4451 (PMH)

JUDGMENT

FELIX IKESHUKWU EZEKWE, et al.,

Defendants.
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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated December 11, 2023, Defendant's motion to dismiss is GRANTED. Although "[d]istrict courts should frequently provide leave to amend before dismissing a pro se complaint," it is "not necessary when it would be futile." *Reed v. Friedman Mgmt. Corp.*, 541 F. App'x 40, 41 (2d Cir. 2013) (citing *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000)). The parties, prior to the instant motion practice, exchanged letters concerning the deficiencies in the pleading raised by Defendant pursuant to the Court's Individual Practices and Plaintiff advised Defendant that he intended to stand on his pleading. (Doc. 20). The Court thereafter expressly permitted Plaintiff the opportunity to amend his pleading (Doc. 23) and he elected not to do so. In any event, the Court dismisses the claims alleged in Plaintiff's Complaint with prejudice as any amendment would be futile. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Opinion and Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. *Coppedge v. United*

States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue); accordingly, the case is closed.


Dated: New York, New York

December 11, 2023

RUBY J. KRAJICK

Clerk of Court

BY:


Deputy Clerk